

(c) Except as provided in §411.536 (reconciliation payments) the milestones for which payments may be made must occur prior to the beginning of the beneficiary's outcome payment period.

(d) We will pay an EN (or State VR agency acting as an EN) to which the beneficiary has assigned a ticket for milestones or outcomes achieved only in months prior to the month in which the ticket terminates (see §411.155). We will not pay a milestone or outcome payment to an EN (or State VR agency acting as an EN) based on a beneficiary's work or earnings activity in or after the month in which the ticket terminates.

(e) If a title XVI disability beneficiary becomes entitled to title II benefits after we authorize the first milestone or outcome payment, we will continue to calculate the EN payments using title XVI payment calculation base under the outcome payment system on the basis of paragraph (a)(1)(i) and under the outcome-milestone payment system on the basis of paragraph (a)(2). This applies even if the title XVI eligibility is subsequently terminated and the person becomes only a title II beneficiary.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29346, May 20, 2008]

§411.535 Under what circumstances will milestones be paid?

(a)(1)(i) Under the outcome-milestone payment system, an EN (or a State VR agency acting as an EN) can earn up to four Phase 1 milestone payments for serving beneficiaries whose gross earnings were less than the trial work level in each of the 18 months before the ticket was first assigned to an EN. All work and earnings counted toward reaching the four Phase 1 milestones must occur after the ticket is assigned and before the beginning of the beneficiary's outcome payment period (see §411.500(f)) except as provided in §411.536 (reconciliation payments).

(ii) Significant work activity prior to ticket assignment will limit the availability of Phase 1 milestone payments. The PM will make this assessment of work activity prior to the first ticket assignment on each ticket, irrespective of the EN's chosen payment system, in

order to determine how many milestone payments may be available for serving an individual in the Ticket to Work program. The first Phase 1 milestone payment is not available to be made to an EN if the beneficiary has worked above the trial work level in the calendar month prior to the first ticket assignment on each ticket in the Ticket to Work program. The second Phase 1 milestone payment is not available if the beneficiary has worked above the trial work level in three of the six months prior to the first ticket assignment on each ticket in the Ticket to Work program. The third Phase 1 milestone is not available if the beneficiary has worked above the trial work level in six of the twelve months prior to the first ticket assignment on each ticket in the Ticket to Work program. The fourth Phase 1 milestone is not available if the beneficiary has worked above the trial work level in nine of the 18 months prior to the first ticket assignment on each ticket in the Ticket to Work program.

(iii) If a beneficiary had a ticket that otherwise was available for assignment and chose to receive services under an IPE from a State VR agency that elected the VR cost reimbursement option, payment of Phase 1 milestones to an EN or a different VR agency acting as an EN with respect to the same ticket is precluded if the State VR Agency that elected the VR cost reimbursement option achieved an employment outcome (as described in 34 CFR 361.56) before case closure. An EN or a different VR agency acting as an EN can be paid Phase 2 milestones as described in paragraph (2) of this section with respect to this ticket.

(2) Under the outcome-milestone payment system, an EN can receive up to eleven Phase 2 milestone payments for work by a title II disability beneficiary (including a concurrent title II/title XVI disability beneficiary), or up to eighteen Phase 2 milestone payments for work by a title XVI disability beneficiary. Earnings prior to the first assignment of the ticket in the Ticket to Work program are not taken into account when determining whether sufficient earnings exist for payment of Phase 2 milestones.

(3) If the beneficiary's outcome payment period begins before the beneficiary has achieved all Phase 1 and Phase 2 milestones, then we will pay the EN a final payment in accordance with §411.536 (reconciliation payments) to account for unpaid milestone payments that had been available when the ticket was first assigned.

(b) An EN can be paid for a milestone only if the milestone is attained after a beneficiary has assigned his or her ticket to the EN. See §411.575 for other milestone payment criteria.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29347, May 20, 2008]

§411.536 Under what circumstances can we make a reconciliation payment under the outcome-milestone payment system?

When the beneficiary's outcome payment period begins before the beneficiary has attained all Phase 1 and Phase 2 milestones, we will pay the EN (or a State VR agency acting as an EN) a reconciliation payment. The reconciliation payment will equal the total amount of the milestone payments that were available with respect to that ticket, when the ticket was first assigned, but that have not yet been paid. The reconciliation payment will be based on the payment calculation base for the calendar year in which the first month of the beneficiary's outcome period occurs, rounded to the nearest whole dollar. The payment will be made after an EN has qualified for 12 outcome payments. Where multiple ENs had the ticket assigned at some time, the PM will apply the rule under §411.560 to determine the allocation of the reconciliation payment.

[73 FR 29347, May 20, 2008]

§411.540 How are the payment amounts calculated for each of the milestones?

(a) For both title II disability beneficiaries and title XVI disability beneficiaries, the payment amount for each

of the Phase 1 milestone payments is equal to 120% of the payment calculation base for title II (as defined in §411.500(a)(1)) for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(b) The payment amount for each of the Phase 2 milestones:

(1) For title II disability beneficiaries (including concurrent title II/title XVI disability beneficiaries) is equal to 36% of the payment calculation base as defined in §411.500(a)(1) for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar;

(2) For title XVI disability beneficiaries (who are not concurrently title II disability beneficiaries) is equal to 36% of the payment calculation base as defined in §411.500(a)(2) for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

[73 FR 29347, May 20, 2008]

§411.545 How are the outcome payments calculated under the outcome-milestone payment system?

The amount of each monthly outcome payment under the outcome-milestone payment system is calculated as follows:

(a) For title II disability beneficiaries (including concurrent title II/title XVI disability beneficiaries), an outcome payment is equal to 36 percent of the payment calculation base as defined in §411.500(a)(1) for the calendar year in which the month occurs, rounded to the nearest whole dollar;

(b) For title XVI disability beneficiaries (who are not concurrently title II/title XVI disability beneficiaries), an outcome payment is equal to 36% of the payment calculation base as defined in §411.500(a)(2) for the calendar year in which the month occurs, rounded to the nearest whole dollar.

(c) The following chart provides an example of how an EN could receive milestone and outcome payments: